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9 NORTHROP GRUMMAN CORPORATION

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 HELENA FONTAINE,

13 Plaintiff,

14 v.

15 NORTHROP GRUMMAN
16 CORPORATION,

17 Defendant.

18 CASE NO. 2:15-CV-7672

19 **NOTICE OF REMOVAL OF
20 ACTION UNDER 28 U.S.C. § 1441(a)**

1 **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

2 **PLEASE TAKE NOTICE** that defendant NORTHRON GRUMMAN
 3 CORPORATION (“Northrop”), hereby removes to this Court the state court action
 4 described below:

5 1. On or about August 28, 2015, plaintiff Helena Fontaine (“Plaintiff”),
 6 acting in Pro Per, filed an action in the Superior Court of the State of California, in
 7 and for the County of Los Angeles, entitled: HELENA FONTAINE vs.
 8 NORTHROP GRUMMAN CORPORATION, as Case No. BC592527. A copy of
 9 Plaintiff’s Form Complaint, California Judicial Council Form PLD-C-001
 10 (“Complaint”), and all documents attached thereto are attached hereto as Exhibit A.

11 2. Northrop first received a copy of the Complaint on September 8, 2015
 12 by way of the United States mail.

13 3. Northrop is the sponsor of the Northrop Grumman Retirement Plan
 14 and the Northrop Grumman Retirement Value Plan, sub-plans of the Northrop
 15 Grumman Pension Plan (the “Plan”), an employee benefit plan governed by the
 16 Employee Retirement Income and Security Act (“ERISA”), 29 U.S.C. § 1001 *et*
 17 *seq.*

18 4. In her Complaint, Plaintiff purports to assert causes of action against
 19 Northrop for “Breach of Contract” and “Loss of pension wages,” as well as “other
 20 allegations” for “Interference and Breach of Contract, Discrimination-preventing
 21 [her] from obtaining [her] correct pension, Violation of ERISA act, Breach of
 22 Fiduciary Duty, Misuse of funds, Fraud.” See Complaint ¶¶ 8-9. Then in what
 23 appears to be an attachment to the complaint titled “General Negligence,” plaintiff
 24 purports to cite the Northrop Retirement Plan formulas for how a pension should be
 25 calculated. While not pled with a high degree of clarity, all of the statements and
 26 allegations in the Complaint appear to relate to Plaintiff’s view of how Northrop
 27 allegedly administered the Plan and what pension benefits Plaintiff believes she is
 28 entitled to receive. *See* Complaint. Plaintiff prays, in relevant part, for “correct

1 pension based on ERISA act of 1994 Section 204 and NG Retirement Plan.” See
 2 Complaint, ¶ 10.

3 5. This Court has original jurisdiction in this civil action under 28 U.S.C.
 4 § 1331 because Plaintiff makes allegations relating to the administration of an
 5 employee benefit plan governed by ERISA.

6 6. The Plan is an “Employee Benefit Plan” as defined in the ERISA.
 7 Pursuant to 29 U.S.C. § 1144(a), ERISA shall “supersede any and all State laws
 8 insofar as they may now or hereafter relate to any employee benefit plan . . .” This
 9 “extraordinary” and “virtually unique” preemption provision was intended to “clear
 10 away *all* state laws” relating to ERISA plans and to assure a “nationally uniform
 11 administration of such plans.” *See* Schwarzer, Tashima & Wagstaffe, CAL. PRAC.
 12 GUIDE: FED. CIV. PROC. BEFORE TRIAL (The Rutter Group 2011)
 13 Section 2:2677, *citing Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 46 (1987).

14 7. ERISA’s preemptive force is “so strong” that federal preemption “is
 15 ‘complete’: i.e., the state law claim is not merely displaced, it is replaced with an
 16 ERISA claim.” *See* Schwarzer, Tashima & Wagstaffe, CAL. PRAC. GUIDE: FED.
 17 CIV. PROC. BEFORE TRIAL (The Rutter Group 2011) Section 2:2678, *citing*
 18 *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 454-55 (1987).

19 8. Moreover, state law claims implicating the administration of an
 20 ERISA plan are “completely preempted” and “are ‘recharacterized’ as claims
 21 ‘arising under’ federal law and thus removable to federal court.” *See* Schwarzer,
 22 Tashima & Wagstaffe, CAL. PRAC. GUIDE: FED. CIV. PROC. BEFORE TRIAL
 23 (The Rutter Group 2011) Section 2:2680, *citing Metropolitan Life Ins. Co. v.*
 24 *Taylor*, 481 U.S. 58, 66 (1987). Because an Employee Benefit Plan governed by
 25 ERISA and the administration thereof forms the basis for Plaintiff’s claim against
 26 the Northrop, this Court has federal question jurisdiction over Plaintiff’s claim.

27 9. Northrop may remove this action to this Court pursuant to the
 28 provisions of 28 U.S.C. § 1441(a) as Plaintiff’s claims asserted against invokes a

1 matter of Federal question jurisdiction as it relates to the administration of an
2 ERISA plan.

3 10. Removal to this Court is proper, as it is the District Court for the
4 District and Division "embracing the place where such action is pending." 28
5 U.S.C. § 1441(a).

6 11. This Notice of Removal is filed with the Court within thirty (30) days
7 of the date the Northrop first received a copy of the initial pleading in the above-
8 entitled action.

9 WHEREFORE, defendant NORTHROP GRUMMAN CORPORATION
10 respectfully requests that the action described above be removed to this Court
11 pursuant to 28 U.S.C. §§ 1331 and 1441(a).

12 Dated: September 30, 2015

McDERMOTT WILL & EMERY LLP

14 By: /s/ Chris C. Scheithauer
15 Chris C. Scheithauer
16 Counsel for defendant
17 NORTHROP GRUMMAN
18 CORPORATION

CERTIFICATE OF SERVICE

I certify that on September 30, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, Central District of California, by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(a)

Helena Fontaine, In Pro Per
8743 Nada Street
Downey, CA 90242

Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit. I declare that I am familiar with the Firm's practice of collection and processing mailing.

Executed on September 30, 2015, at Irvine, California.

/s/ Chris C. Scheithauer